5161/06 29/11/06 Filed on ..... by Shri Dhanesh Sinha (A) ..... 29/11/06 R. & S. R. (J) (1)

(3)

IN THE HIGH COURT OF JUDICATURE AT

BILASPUR CHHATTISGARH Single Bench

CR.M.P. 187 **/ 2006** **(S.B.)**

APPLICANT : Kiran Kumar, S/o Shri Ramnath,
(In Jail) Aged about 30 years, Cast - Satnami,
R/o- Village Lalmati, P.S. & Tahsil -
Jaijaipur, Dist. - Janjgir Champa
(C. G.)

ACCUSED OF THE CASE

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VERSUS

NON-APPLICANT : State of Chhattisgarh
Through Police station -
Jaijaipur, Distt - Janjgir-champa,

Criminal Petition under section 482 of the Code of Criminal Proceedure, 1973

HIGH COURT OF CHHATTISGARH: BILASPUR
S.B. HON'BLE SHRI VIJAY KUMAR SHRIVASTAVA, J
CRIMINAL MISC PETITION 187 OF 2006

PETITIONER KIRAN KUMAR

Vs

RESPONDENT STATE OF CHHATTISGARH

PRESENT:
Shri Dharmesh Shrivastava, counsel for the petitioner.
Shri Vinay Harit, Additional Public Prosecutor for the State.

ORDER
(Passed on 1st March 2007)

This petition filed by the petitioner under Section 482 of the Code of Criminal Procedure (For short " the Cr.P.C.) has been directed against the order dated 18.10.2006 passed by Additional Sessions Judge, Sakti in Criminal Revision No.15/2006.

2) Briefly stated facts are that, petitioner was prosecuted for committing offence punishable under Sections 420, 467, 468 of the IPC. After framing of charge, learned trial Court fixed the case for recording of evidence on 18.07.2006, but, after completion of 60 days, neither recording of evidence is started nor concluded. Therefore, an application invoking provision of Section 437(6) of the Cr.P.C. was made before the trial Court. Additional Chief Judicial Magistrate, Sakti (trial Court) declined to release the petitioner on bail. Feeling aggrieved, petitioner preferred a revision before Additional Session Judge, Sakti, who also vide impugned order refused to release the petitioner on bail. Hence, the instant petition.

3) Undisputedly, a cheque bearing No.002610 dated 14th October 2004 was issued by ICC Bank, Ludhiana for Rs.1,620/- in favour of the petitioner. It is alleged that by manipulation the amount was converted as Rs.61,620/- and thereafter the said cheque was tendered for collection in the State Bank of India, Jaijaipur. On verification, it was found that the cheque has been issued for Rs.1,620/-, therefore, no payment was made to the petitioner.

4) Learned counsel for the petitioner contended that the petitioner is not the author of manipulation. The cheque received by the petitioner was tendered for collection. He is innocent. He is under custody for the last nine months. The trial is Magesterial trial. In near future, also the case is not going to be concluded and decided. He is not prolonging the trial, for delay prosecution alone is responsible. On the other hand, learned counsel for the State supported the impugned order.

5) Undisputedly petitioner is not responsible for the delay of the trial. Trial is Magesterial trial and will take time for its disposal.

6) Having considered all the facts and circumstances of the case without expressing any opinion on the allegations leveled against the petitioner, it is directed that on furnishing a personal bond of Rs.25,000/- (Rupees twenty-five thousand only) with two sureties of the like sum abiding with following other conditions, to the satisfaction of the concerned Court for his regular appearance before the concerned courts as and when so directed, he be released on bail :

1) He shall not commit any similar offence of which he is accused.

2) He shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court.

3) He shall not leave the State of Chhattisgarh without previous permission of the Court.

In view of the above order Cr.M.P.187/2006 stands disposed of.

Certified copy as per rules.

Sd/-
V.K.Shrivastava
Judge

padma